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| 10/642,904 | 08/18/2003 | Marcus Gerrard Lindsey | L1172 | 3198 |

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Los Angeles, CA 90024

EXAMINER

BLAU, STEPHEN LUTHER

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3711

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,904

Applicant(s)

LINDSEY, MARCUS GERRARD

Examiner

Stephen L. Blau

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) 2 and 6-21 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 3-5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 19 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. It is noted on the Office action dated 20 September 2004 at the end of paragraph 1 the examiner incorrectly stated claims 3 and 6-21 have been withdrawn from further consideration. Due the to election of species the examiner should have said claims 2 and 6-21 have been withdrawn from further consideration. The Office Action Summary and the rejections of 20 September 2004 properly prosecuted the elected claims 1 and 3-5.

Specification

2. The changes to the disclosure and drawings are agreed with and the objections are removed.

Drawings

3. The changes to the drawings are agreed with and the objections are removed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberger in view of Squadroni or Koch.

Landsberger discloses an implement having a handle (14), and adjustable air-tight grip attached to the handle, a grip comprising a tubular solid, single piece of material placed over the handle (Fig. 4), means to introduce air between a grip and a handle (6) for inflating the grip to the size desired and means to release the air between the grip and a handle to commensurate with the manual capabilities of a user (Col. 1, Lns. 34-50) in order to have totally resilient handle providing maximum degree and comfort and utility for those with poor hand muscle or motor control as arthritic conditions (Col. 1, Lns. 1-22).

Landsberger lacks a sports implement, a grip material sealed to a handle only at the top and bottom of a grip, and a grip being circular. Squadroni discloses a sports implement (Col. 1, Lns. 11-15) where a circular (Fig. 4) tubular solid piece of material (15) is placed over a core shaft of a handle (12) where the grip material is sealed only on at a top and bottom of the handle area (Fig. 1) for inflating with air (Col. 1, Lns. 30-36). Kock discloses a sports implement (Fig. 2) where a circular (Fig. 8) tubular solid

piece of material (54) is placed over a core shaft of a handle (44) where the grip material is sealed only on at a top and bottom of the handle area (Fig. 9) for filling with a fluid to pressurize a grip (Col. 6, Lns. 34-44). In view of Squadroni or Koch it would have been obvious to modify the implement of Landsberger to be for a sports device with a grip being circular in order to provide a grip for a sporting device having a circular handle to commensurate with the manual capabilities of a user having a totally resilient handle and providing maximum degree and comfort and utility for those with poor hand muscle or motor control as arthritic conditions. In view of Squadroni or Koch it would have been obvious to modify the implement of Landsberger to have a grip material sealed to a handle only at the top and bottom of a grip in order to minimize the amount of grip material needed to hold fluid in the form of air used for a grip.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberger in view of Squadroni or Koch as applied to claims 1 and 3 above, and further in view of Official Notice.

Landsberger discloses a grip being made of any suitable gauge inflatable material providing continuous inflating and leak proof (Col. 1, Lns. 35-50).

Landsberger lacks a grip being formed of rubber.

Squadroni discloses a grip (Fig. 2) with a portion of it being an inflated elastic material (Claim 3). The examiner makes Official Notice that a well known inflatable elastic material known is rubber. In view of the examiner's Official Notice it would have

been obvious to modify the inflatable grip of Landsberger to be made of rubber in order to utilize an inflatable elastic material used in the market place for inflating.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberger in view of Squadroni or Koch as applied to claims 1 and 3 above, and further in view of Huang (5,355,552).

Landsberger lacks a means to introduce air being a finger pump placed at a top of a handle, an air duct to pass from a finger pump down through a handle to between a handle and a grip.

Kock discloses a duct through a handle to pass a fluid to pressurize an area between a grip and handle (Fig. 9, Ref. No. 88). Huang discloses a source of introducing a pressurized fluid between a grip and a handle being a finger pump (209). In view of the patent of Huang it would have been obvious to modify the sports element of Landsberger to have a means to introduce air being a finger pump placed at a top of a handle in order to prevent one from having to use their mouth to pressurize the area between the grip and the handle. In view of the patent of Kock it would have been obvious to modify the sports element of Landsberger to have an air duct to pass a fluid from a top of a grip to pressurized area between a handle and a grip down through a handle in order to utilize a known way to direct pressurizing fluid to between a grip and a handle which is used in the market place.

Response to Arguments

8. Applicant's arguments with respect to claims 1 and 3-5 are have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (571) 272-4406.

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The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Greg Vidovich whose telephone number is (571) 272-4415. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. (TC 3700 Official Fax 703-872-9306)

slb/ 7 February 2005



STEPHEN BLAU
PRIMARY EXAMINER